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SIPDIS

EEB/TPP/IPE FOR JOELLEN URBAN
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DEPT PLEASE PASS USPTO FOR MICHAEL SMITH
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SUBJECT: POSITIVE DEVELOPMENTS FOR IPR IN TURKEY

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Classified By: Classified by Economic Counselor Dale Eppler for reasons
1.4(b) and (d).

11. (C) Summary. In recent months, the GOT has taken several positive steps in its protection of copyright, and plans to implement encouraging new programs in the latter half of 2008 and early 2009. 1) On June 1, a new system finally came online to certify and track all members of the distribution chain for copyrighted material, which has already issued over 40,000 certifications. 2) On July 15, the Prime Minister,s office prohibited all GOT offices from using pirated software. 3) A system to make copyright registrations electronically available to IPR judges is currently in testing and will enter into full production in January 2009, which should help reduce the backlog in these types of cases. 4) The Prime Minister,s office established an IPR Coordination Board at the undersecretarial level, which will hold its first meeting in October. 5) Also in October, the Directorate General of Copyright and Cinema (DGCC) at the Ministry of Culture and Tourism (MOCT) hopes to establish an award program for enforcement officials involved in copyright seizures, similar to existing programs for drug seizures. 6) Finally, the Directorate General is in the early stages of a legislative proposal to make itself into an autonomous agency, which would greatly increase its ability to act against copyright infringement. Although Director General S. Abdurrahman Celik complained that U.S. software companies had been insufficiently grateful (i.e., were not providing discounts) for the steps taken by the GOT, he was keen to increase cooperation and training efforts with the U.S. and to draw on U.S. IPR expertise. End Summary.

12. (U) On August 5, Emboffs met with Dr. S. Abdurrahman Celik, Director General of the DGCC. Dr. Celik gave a wide-ranging assessment of recent projects undertaken by his department and previewed expected developments over the next five to six months.

Tracking the Distribution Chain of Copyrighted Material

13. (U) On June 1, legislation establishing a certification process for distribution of copyrighted material finally entered into force after languishing in legal limbo since 2005 (reftel). This regulation established a mandatory mechanism for publishers, distributors, and sellers of copyrighted material to receive certification from the DGCC and created a regular audit system at all levels to ensure that only copyrighted material is being distributed and offered for sale. An electronic database will track the transfer of material as it moves through the distribution chain.

¶4. (C) According to Dr. Celik, in the first two months of the program over 40,000 different entities had been certified, and the DGCC expects to have issued 150,000 certificates within the first year. The automatic auditing mechanism will begin in October, which will allow local enforcement officials to verify compliance with copyright law without needing the approval of a prosecutor. Comment: Given the sometimes lengthy procedural and evidentiary requirements for obtaining prosecutorial approval, this program will represent a significant step in enforcement of copyright protections, if it works as advertised. As the enforcement officials on the ground will merely be verifying the existence of a banderole on the suspect product, however, the problems of fraudulent and unauthorized banderole use will increase. End comment.

Government Software Procurement Moves into the White Market

¶5. (U) On July 15, the Prime Minister's office released a circular to all public agencies prohibiting them from purchasing or using unlicensed software. The PM ordered agencies currently using unlicensed copies to destroy them and purchase new, licensed versions. The order additionally required all agencies to create a database of licensed software and conduct audits on a regular basis to ensure that only the original, licensed software is being used. Agencies are also required to ensure that any hardware or software purchased at auction has the original and licensed software. A similar circular was released in 1998, but compliance - especially at the municipal level - was mixed at best.

¶6. (C) DG Celik said that he met with representatives from Microsoft, who were deluged with calls from government agencies following the publication of the circular. He noted that the MOCT alone had placed an order for almost one million USD in new software, but complained that Microsoft was only willing to offer a relatively small discount of USD 30,000. While he acknowledged that the USG has no ability to dictate a company's pricing, he felt that the software companies were insufficiently grateful for the GOT's initiative, and noted that aggressive discounting from companies would help encourage continued compliance and prevent backsliding by cash-strapped agencies. Comment: Celik seemed not to notice the irony that the MOCT, which is responsible for copyright protection, had placed such a large order suspiciously close to the circulation of an order forbidding the use of illegal software. End comment.

Speeding Up Judges, Access to Copyright Records

¶7. (C) Celik described a new electronic database for copyright records which is currently in the testing phase. This project is a joint venture with the Scientific and Technological Research Council of Turkey (TUBITAK) and aims to significantly reduce the delays that result when an IPR judge requests access to copyright registration records. Currently these requests must be submitted on paper and are individually handled by DGCC staff, creating long delays in a system already suffering from backlogs. Once the database is online, judges will be able to directly query the system and obtain results instantly, which should speed up decision-making. Celik anticipated that tests would continue through November or December and that the system would come fully online in January 2009.

¶8. (SBU) Comment: Copyright cases in Turkey currently take six months to two years to clear the lower courts and then languish on appeal for several additional years. During this period infringers are generally continuing to violate the rights holders, IPR. Any development that will speed up the process and reduce backlogs is welcome. End comment.

Higher-Level Coordination on IPR

¶9. (U) In keeping with the GOT's IPR Action Plan, the PM's

office released a circular establishing an IPR Coordination Board at the Undersecretarial level. This group will hold its first meeting in October, and will consist of the Undersecretaries of Culture and Tourism, Industry, Justice, and Customs, as well as the Director General of the Security Directorate General. The goal of the board is to ensure that GOT activities with regard to the protection of IPR are not working at cross-purposes and to address issues which impact more than one agency.

Rewards for Seizure of Pirated Materials

¶10. (C) Celik briefly discussed a proposed regulation currently with the PM,s office to create a financial reward system for public officials who seize copyrighted material, which would be similar to existing programs for drug seizures. This concept was first introduced as an amendment to the Copyright Law on December 28, 2006, but has not yet been implemented. He hoped that this scheme would create incentives for local officials to take action against piracy. His expectation was that the implementing regulations would be approved in October.

Autonomous Status for Copyright Directorate General

¶11. (C) Celik complained at length that while responsibilities for his office increased every year, there had been no corresponding increase in personnel or salaries. He also noted the difficulty of trying to take action when there are too many fingers in the pie, with assorted ministries and the PM,s office constantly meddling in his efforts. He enthusiastically welcomed, therefore, a legislative proposal supported by the Ministry of Culture to make his office into an autonomous agency. He was pessimistic about the chances of convincing the PM,s office to approve the proposal, but felt that it would be an important step in enabling his agency to achieve meaningful and lasting results on copyright protection.

Strong Interest in U.S. Expertise

¶12. (SBU) According to Dr. Celik, Turkey has become increasingly aware of its responsibility to protect IPR. He observed that there are now IPR courses at Ankara University and at Istanbul,s Bilgi University and that demand for these programs has been impressive. He recognized, however, that there is still a need to increase awareness among the general public of the benefits and challenges related to IPR, and suggested that it would be valuable to bring experts from USPTO to speak at universities and NGOs about the U.S. experience with IPR.

¶13. (SBU) Celik also noted that within his office eight or nine legal experts had recently been promoted, and that he was very interested in providing them with exposure to international expertise and training. Emboffs offered to explore whether there might be an opportunity to obtain that training either through the International Visitor program or the USPTO,s Global Intellectual Property Academy.

All the Rights Words, But the Proof is in the Pudding

¶14. (C) Comment: Dr. Celik seemed to say all the right things regarding copyright protection and enforcement, but this is not the first time that we have heard this story. As noted in para 3, it took nearly three years from when we first reported on the new certification process until it was finally brought into being. A healthy dose of skepticism is therefore in order regarding the eventual implementation of some of these new initiatives, and only time will tell how effective they actually are. Nevertheless, the various programs described by Dr. Celik should help to make the structure of copyright enforcement in Turkey more flexible and efficient, which is a welcome development. End comment.

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